HIGH COURT OF UTTARANCHAL AT NAINITAL.

Writ Petition No. 1184 (S/S) 2005

Bhola Dutt Tewari S/o Sri Shiv Dutt Tewari,
Presently posted as Patwari,
Tehsil Kaladhungi, District Nainital. ---Petitioner.

Vs.

1. State of Uttaranchal through,
   Its Secretary, Revenue,
   Civil Secretariat, Dehradun,
2. District Magistrate,
   Nainital. ---Respondents.

Sri Anil Kumar Joshi, learned counsel for the petitioner.
Learned Standing Counsel for respondents.

Hon'ble M.M. Ghildiyal, J.

Heard Sri Anil Kumar Joshi, learned counsel for the petitioner and learned Standing Counsel who has accepted notice for the respondents.

By means of this writ petition, the petitioner has challenged the order dated 22.07.2005 issued by the District Magistrate, Nainital by which the petitioner, who is a Patwari, has been transferred from Kaladhungi, district Nainital to Ramnagar, District Nainital.

Counsel for the petitioner has submitted that on 29th April 2005, the Govt. of Uttaranchal has issued guidelines, in regard to the transfers of the employees. In clause-10 of the guidelines it has been provided that the President and the Secretary of the recognized association shall not be transferred for a period of two years from the date when the employee has been elected as office bearer of the association. It has been further submitted that the petitioner has been elected as a District Secretary of recognized association of Patwaries named as "Tarai Bhaber

Patwari Association" and, as such, the transfer is in violation of guidelines issued by the Govt. itself.

Learned Standing Counsel has submitted that the guidelines do not have statutory force, hence the transfer order passed by the respondent no. 2 is not against the Service Rules or against any such provision, which has statutory force. It is true that the guidelines do not have statutory force but these guidelines have been issued by the Govt. taking into consideration the welfare of the employees attached with the recognized association.

Counsel for the petitioner has submitted that he has already moved representation to that District Magistrate, Nainital on 25.07.2005, which is still pending and nobody has taken charge in place of the petitioner at Kaladhungi.

In these circumstances, without entering into the merits of the case, it is in the interest of justice to direct the District Magistrate, Nainital to decide the representation of the petitioner within a period of four weeks from the date of receipt of a certified copy of this order. The petitioner is directed to submit a certified copy of this order before the District Magistrate, Nainital within one week from today. Till the decision is taken on the representation of the petitioner, he shall not be relieved from Kaladhungi.

With these directions, the writ petition is finally disposed of.

(M.M. Ghildiyal, J.)

August 22, 2005:
NCM: